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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,948	02/19/2002	John M. Haltmeyer	HALTMEYER-PA-2	3414
<div>7590      03/27/2008 Lawrence E. Laubscher, Jr. 1160 Spa Road Suite 2B Annapolis,, MD 21403</div>			<div>EXAMINER ALMEIDA, DEVIN E</div>	
			<div>ART UNIT 2132</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 03/27/2008</div>	<div>DELIVERY MODE PAPER</div>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/076,948	<b>Applicant(s)</b> HALTMEYER, JOHN M.	
	<b>Examiner</b> DEVIN ALMEIDA	<b>Art Unit</b> 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This action is in response to the papers filed 5/31/2007. Claims 1-9 were received for consideration.

#### ***Claim Rejections - 35 USC § 101***

Claim 3-8 are rejected under 35 U.S.C. 101 because 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 3-8 are rejected under 35 U.S.C. 101 because the claim invention is directed to non-statutory subject matter. With the respect to claim 1-9, what is being claimed appears to read on software per se as the application information collector module recited is implemented via software alone. Software by itself is not statutory. A claim to a data structure, per se, or other functional descriptive material, including computer programs, per se, is not patent eligible subject matter. This is exemplified in In re Warmerdam 31 USPQ2d 1754 where the rejection of a claim to a disembodied data structure was affirmed. Functional descriptive material claimed in combination with an appropriate computer readable medium to enable the functionality to be realized is patent eligible subject matter if it is capable of producing a useful, concrete and tangible result when used in the computer system. Compare Warmerdam to In re Lowry 32 USPQ2d 1031 where a memory with a data structure that increased computing efficiency was patentable.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112 second paragraph. According to Ex parte Simpson, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. In fact, the value of a trademark would be lost to the extent that it became descriptive of a product, rather than used as an identification of a source or origin of a product. Thus, the use of a trademark or trade name in a claim to identify or describe a material or product would not only render a claim indefinite, but would also constitute an improper use of the trademark or trade name.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Winneg et al (US 7,165,269).

With respect to claim 1, a process for restricting unauthorized operations by a computer user, comprising: using a security executable to create a list of authorized operations for said computer user (see column 18 lines 47-56); attaching a hook function to all new processes (see column 12 lines 43-59); employing the hook function

whenever a new application is started to send a message to the security executable (see column 12 lines 43 column 13 line 2), said message including a process id and path of the new application (see "SetWindowsHookEx" reference, Dietmoday inherent in windows to SetWindowsHookEX function parameter dwThreadId ); receiving said message from the hook function at the security executable and correlating to said list to determine whether the new application is authorized or not (see figure 10 and column 19 lines 10-16); answering the message by the security executable when the new application is authorized to indicate so (see column 13 lines 3-20); stopping the new application when the new application is not authorized (see column 19 lines 53-57).

With respect to claim 2, a software system for restricting unauthorized operations by a computer user, comprising: a first program module, which is a hook procedure, for automatically attaching to all new processes and for querying an ID of each said new process (see column 12 lines 43-59); a second program module in communication with said first program module, said second program module using a security executable to build building a list of allowed applications (see column 18 lines 47-56), retrieving retrieve the ID of each new process from said first program module (see figure 10 and column 19 lines 10-16), and terminate each process not identified on said list of allowed applications (see column 19 lines 53-57).

With respect to claim 3, wherein said first program module is executable in user mode (see column 12 lines 43-59).

With respect to claim 4, wherein said first program module is attached to new processes by tying into the USER32 using the system dynamic link library (see column 13 lines 21-29).

With respect to claim 5, wherein said first program module is a Windows hook procedure (see column 12 lines 43-59).

With respect to claim 6, wherein said first program module communicates with said second program module by sending a message with the process ID and path of the process being examined (see column 12 lines 43 column 13 line 2).

With respect to claim 7, wherein said second program module communicates with said first program module when said process is authorized by answering said message with an indication that said process is authorized (see column 13 lines 3-20).

With respect to claim 8, wherein said second program module automatically terminates said process when not authorized (see column 19 lines 53-57).

With respect to claim 9, comprising the steps of: using a security executable to create and maintain a list of authorized processes and IDs for each computer user (see column 18 lines 47-56); attaching a hook function to all new processes (see column 12 lines 43-59); monitoring all new processes that are started with the hook function and determining an ID thereof (see figure 10 and column 18 line 27 – column 19 line 57); receiving said ID from the hook function by the security executable (see “SetWindowsHookEx” reference, Dietmoday inherent in windows to SetWindowsHookEX function parameter dwThreadId ); determining whether the ID of each started process is on said list (see column 13 lines 3-20); allowing said process to

continue when its ID is on the list (see column 13 lines 3-20); terminating said process when its ID is not on the list (see column 19 lines 53-57).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devin Almeida whose telephone number is 571-270-1018. The examiner can normally be reached on Monday-Thursday from 7:30 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Devin Almeida  
Patent Examiner  
3/19/2008

/Benjamin E Lanier/

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